

## § 136.41

SOURCE: 64 FR 58321, Oct. 28, 1999, unless otherwise noted. Redesignated at 67 FR 35342, May 17, 2002.

### § 136.41 Definitions.

For purposes of making appointments to vacancies in all positions in the Indian Health Service, a preference will be extended to persons of Indian descent who are:

- (a) Members of any recognized Indian tribe now under Federal jurisdiction;
- (b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;
- (c) All others of one-half or more Indian blood of tribes indigenous to the United States;
- (d) Eskimos and other aboriginal people of Alaska; or
- (e) Until January 4, 1990, or until the Osage Tribe has formally organized, whichever comes first, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

### § 136.42 Appointment actions.

(a) Preference will be afforded a person meeting any one of the definitions of § 136.41 whether the placement in the position involves initial appointment, reappointment, reinstatement, transfer, reassignment, promotion, or any other personnel action intended to fill a vacancy.

(b) Preference eligibles may be given a schedule A excepted appointment under 5 CFR 213.3116(b)(8). If the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

[64 FR 58321, Oct. 28, 1999. Redesignated and amended at 67 35342, May 17, 2002]

### § 136.43 Application procedure for preference eligibility.

To be considered a preference eligible, the person must submit with the employment application a Bureau of Indian Affairs certification that the person is an Indian as defined by § 136.41 except that an employee of the Indian Health Service who has a certificate of preference eligibility on file in the Official Personnel Folder is not required to resubmit such proof but

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may instead include a statement on the application that proof of eligibility is on file in the Official Personnel Folder.

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## Subpart F—Abortions and Related Medical Services in Indian Health Service Facilities and Indian Health Service Programs

AUTHORITY: Sec. 1, 42 Stat. 208, (25 U.S.C. 13); sec. 1, Stat. 674, (42 U.S.C. 2001); sec. 3, 68 Stat. 674, (42 U.S.C. 2003).

SOURCE: 64 FR 58322, Oct. 28, 1999, unless otherwise noted. Redesignated at 67 FR 35342, May 17, 2002.

### § 136.51 Applicability.

This subpart is applicable to the use of Federal funds in providing health services to Indians in accordance with the provisions of subparts A, B, and C of this part.

### § 136.52 Definitions.

As used in this subpart:

*Physician* means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery at an Indian Health Service or tribally run facility, or by the state in which he or she practices.

### § 136.53 General rule.

Federal funds may not be used to pay for or otherwise provide for abortions in the programs described in § 136.51, except under the circumstances described in § 136.54.

[64 FR 58322, Oct. 28, 1999. Redesignated and amended at 67 35342, May 17, 2002]

### § 136.54 Life of the mother would be endangered.

Federal funds are available for an abortion when a physician has found and so certified in writing to the appropriate tribal or other contracting organization, or Service Unit or Area Director, that “on the basis of my professional judgment the life of the mother would be endangered if the fetus were carried to term.” The certification